

## APPENDIX B

### **SBC COMMUNICATIONS INC. BIENNIAL ENGAGEMENT PROCEDURES**

#### **Follow-up Procedures on the Prior Engagement**

1. The following matters were noted in the prior engagement:
  - a. As of March 29, 2001, of a total of 450 agreements or pricing addenda, 25 agreements or pricing addenda had not been posted on the Internet and 17 agreements or pricing addenda were not physically available, as required, at the Central Files Locations of the SBC BOCs (V&VI-6 in report, V&VI-5 in this program).
  - b. A sample of 100 agreements or pricing addenda designed to test timeliness of posting on the Internet revealed the following:
    - 3 agreements were posted on the Internet beyond the required 10 days of the effective date of the agreement.
    - The date of posting could not be verified for 12 agreements or pricing addenda.
    - The posting documentation for 39 agreements or pricing addenda was internal correspondence or employee file notes (V&VI-6 in report, V&VI-5 in this program).
  - c. The report indicates that in the September 2000 billing from Pacific Bell to SBCS for Consumer Markets Group services, the unit price used for billing was \$1.00 per listing compared to the fully distributed cost (FDC) rate of \$118.42 per hour. No supporting information was provided that converted the FDC rate of \$118.42 per hour to the billed rate of \$1.00 per listing (V&VI-9 in report, V&VI-6 in this program).
  - d. For services rendered by the Section 272 affiliates to the SBC BOCs, the sampled invoiced amounts for six services did not agree with the amounts shown on a summary listing from which the sample was drawn. Further, the amounts recorded and paid by the SBC BOCs was different (V&VI-10 in report, V&VI-7 in this program).
  - e. The performance measurement data, which are designed to determine compliance with the nondiscriminatory requirements of Section 272(e)(1), revealed an erratic pattern of performance, some in favor of the affiliates and some in favor of the

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nonaffiliates, at different stages of completion of the requests for service (VIII-3 in report, VIII-4 in this program). The rules require that the response time for equivalent requests from nonaffiliates be no greater than the response time it provides to itself or its affiliates.

- f. A test of exchange access rates by USOC code revealed that the rates charged by the SBC BOCs to the Section 272 affiliates were in some cases lower than the rates charged unaffiliated carriers (IX-3 in report, IX-2 in this program). The rules require that a BOC may not discriminate in favor of its Section 272 affiliates by charging nonaffiliates rates higher than those charged its Section 272 affiliates.
- 2. When performing the procedures related to the above matters (V&VI-5, V&VI-6, V&VI-7, and VIII-4, IX-2 in this program), the practitioner should note in the report whether these occurrences continued to exist beyond the previous engagement period, what action management took to ensure their non-recurrence or improvement, and their effective dates.

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### Procedures for Structural Requirements

**OBJECTIVE 1.** Determine whether the separate affiliate required under Section 272 of the Act has operated independently of the Bell operating company.

#### STANDARDS

The FCC has issued rules and regulations in CC No. Docket 96-149, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended. Some of those rules require that,

- A BOC and its Section 272 affiliate cannot jointly own transmission and switching facilities, broadly defined as local exchange and exchange access facilities, or the land and buildings where those facilities are located. (See 47 C.F.R. Section 53.203(a)(1) and First Report and Order, para. 15, 158, 160)
- A Section 272 affiliate shall not perform operating, installation or maintenance functions associated with the BOC's facilities. Likewise, a BOC or any BOC affiliate, other than the Section 272 affiliate itself, shall not perform operating, installation or maintenance functions associated with the facilities that each Section 272 affiliate owns or leases from a provider other than the BOC with which it is affiliated. (See 47 C.F.R. Section 53.203(a)(2), (3) and First Report and Order, para. 15, 158, 163)
- To the extent that research and development is a part of manufacturing, it must be conducted through a Section 272 affiliate. If a BOC seeks to develop services for or with its Section 272 affiliate, the BOC must develop services on a nondiscriminatory basis for or with other entities pursuant to Section 272(c)(1). (See First Report and Order, para. 169)

#### PROCEDURES

- 1 Inquire of management whether there have been any changes in the certificate of incorporation, bylaws, and articles of incorporation of the Section 272 affiliates covered in the first Biennial Audit and/or there have been any legal and/or "doing business as" (DBA) name changes since the last engagement period. Inspect the certificate of incorporation, bylaws, and articles of incorporation of each Section 272 affiliate, not included in the first Biennial Audit, to determine whether these affiliates were established as corporations separate from the SBC BOC/ILEC. Note in the report the results of this procedure.

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- 2 Obtain and inspect corporate entities' organizational chart(s) and confirm, as appropriate, with legal representatives of the SBC BOC/ILEC, Section 272 affiliates, and SBC Communications Inc., the legal, reporting, and operational corporate structure of the Section 272 affiliates. Disclose these facts in the report. Document and disclose in the report who owns the Section 272 affiliates.
- 3 Inquire of management, identify and document which entity performs operations, installation and maintenance functions over facilities either owned by each Section 272 affiliate, or leased from a third party by each Section 272 affiliate.
  - a.) Obtain management's definition and interpretation of operations, installation, and maintenance (OI&M) functions. Describe in the report management's definition of OI&M.
  - b.) Disclose in the report whether or not any of these above described OI&M services are being performed by the SBC BOC/ILECs and/or other non-272 affiliate(s) on facilities either owned by the Section 272 affiliate or leased from a third party by the Section 272 affiliate. For each such service being performed by SBC BOC/ILECs or other non-272 affiliate(s), disclose in the report what service is being performed by what entity.
  - c.) Disclose in the report whether or not any of these above described OI&M services are being performed by the Section 272 affiliate on facilities either owned by SBC BOC/ILECs or leased from a third party by SBC BOC/ILECs. For each such service being performed by the Section 272 affiliate, disclose in the report what service is being performed.
- 4 Inquire of management to determine whether the SBC BOC/ILECs perform any R&D activities on behalf of the Section 272 affiliates. If yes, obtain descriptions of research and development (R&D) activities of the SBC BOC/ILEC for the **Audit Test Period** and note any R&D related to the activities of each Section 272 affiliate. For R&D related to the activities of each Section 272 affiliate, inquire with SBC BOC/ILEC personnel for more details, such as the extent of R&D provided, progress reports, cost, and whether the Section 272 affiliate has been billed and has paid for this service and disclose in the report. Inquire and disclose in the report as to whether R&D service is offered and/or has been performed by the BOC/ILECs when requested by unaffiliated entities.
5. Obtain as of the end of the **Audit Test Period** the balance sheet of each Section 272 affiliate and a detailed listing of all fixed assets including capitalized software which agrees with the amount shown in the balance sheet. If the list does not agree, inquire and document why and disclose in the report. Verify that the detailed listing includes a description and location of each item, date of purchase, price paid and recorded, and from whom purchased or transferred. Disclose in the report any item, including the dollar

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amount, where any of this information is missing. Inspect title and/or other documents, which reveal ownership, of a statistically valid sample of transmission and switching facilities, including capitalized software, and the land and buildings where those facilities are located, added since July 10, 2001. If any of these documents are not made available, disclose in the report. Look for and make a note of any facilities that are owned jointly with the SBC BOC/ILEC and disclose in the report. The balance sheet information obtained in this procedure should also be used to perform Procedure 8 under Objectives V and VI.

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**OBJECTIVE II.** Determine whether the separate affiliate required under Section 272 of the Act has maintained books, records, and accounts in the manner prescribed by the Commission that are separate from the books, records, and accounts maintained by the Bell operating company.

### STANDARDS

In CC Docket No. 96-150, Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996, the FCC requires that each Section 272 affiliate maintain books, records, and accounts, in accordance with generally accepted accounting principles (GAAP), and separate from those of the BOC. (See Report and Order, para. 170)

### PROCEDURES

1. Obtain the general ledger (G/L) of each Section 272 affiliate as of the end of the **Audit Test Period** and match the title on the G/L with the name of the affiliate on the certificate of incorporation (or other name which uniquely identifies the 272 affiliate such as the DBA) to determine that a separate G/L is maintained. Look for special codes, if any, which may link this G/L to the G/L of the SBC BOC/ILEC and provide documentation (unless such codes are merely common accounting system codes or the like that are used in the general ledgers of all companies produced by such accounting system). State in the report whether or not a separate G/L is maintained, if not, explain why. Note: Linkage at corporate headquarters for consolidations is an accepted practice.
2. Obtain each Section 272 affiliate's financial statements and lease agreements as of the end of the **Audit Test Period**. Identify leases for which the annual obligation listed in the lease agreement is \$500,000 or more. Test both leases for which the 272 affiliate is the lessor and leases for which the 272 affiliate is the lessee. For a statistically valid sample of leases, make a note of the terms and conditions to determine whether these leases have been accounted for in accordance with GAAP. Determine whether client lease accounting policies are in accordance with GAAP. Disclose in the report any instance where these leases were not accounted for in accordance with GAAP.

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**OBJECTIVE III. Determine whether the separate affiliate required under Section 272 of the Act has officers, directors, and employees that are separate from those of the Bell operating company.**

### STANDARDS

The FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, interprets the above requirement further by stating the following:

- Separate officers, directors, and employees simply dictates that the same person may not simultaneously serve as an officer, director, or employee of both a BOC and its Section 272 affiliate. (See First Report and Order, para. 178.)

### PROCEDURES

1. Inquire, document and disclose in the report whether each Section 272 affiliate and the SBC BOC/ILEC maintain separate boards of directors, separate officers, and separate employees. For each SBC BOC/ILEC and Section 272 affiliate, obtain a list of the names of directors and officers of the SBC BOC/ILEC and Section 272 affiliate, including the dates of service for each Board member and officer for the engagement period. Compare the list of names of directors and officers of the SBC BOC/ILEC with the list of names of directors and officers of the Section 272 affiliate. For those names appearing on both lists, obtain explanations from management and request social security numbers and addresses to ensure that they are not the same individuals. Disclose in the report the number of directors and officers (who have the same social security number and address) who served simultaneously as a director and/or officer of the SBC BOC/ILEC and Section 272 affiliate.
2. Obtain from their respective Human Resource Departments a list of names and social security numbers of all employees of each Section 272 affiliate and each SBC BOC/ILEC for the **Audit Test Period**. Run a program which compares names and social security numbers of employees and document in the workpapers the names appearing on both lists, respectively. For any employee appearing on both lists simultaneously, inquire and document why in the report (for privacy reasons, do not include the names or SSNs of any SBC employees in the report).

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**OBJECTIVE IV.** Determine that the separate affiliate required under Section 272 of the Act has not obtained credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company.

### STANDARDS

The FCC in 47 C.F.R. Section 53.203(d) indicates that a Section 272 affiliate shall not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the BOC of which it is an affiliate.

The FCC also expands on this premise in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended. In this docket the Commission states that,

- A BOC cannot co-sign a contract or any other instrument with a Section 272 affiliate that would allow each Section 272 affiliate to obtain credit granting recourse to the BOC's assets. (See First Report and Order, para. 189)
- The BOC parent, or any other non-272 affiliate, cannot sign or co-sign a contract or any arrangement with a Section 272 affiliate that would allow the creditor to have recourse to the BOC assets. (See First Report and Order, para. 189)
- A Section 272 affiliate cannot enter any arrangement with any party that would permit the lender to have recourse to the BOC in the event of a default. (See First Report and Order, para. 189)

### PROCEDURES

1. Document in the workpapers each Section 272 affiliate's debt agreements/instruments and credit arrangements with lenders and major suppliers of goods and services. Look for guarantees of recourse to the SBC BOC's/ILEC's assets, either directly or indirectly through another affiliate, and document those instances and disclose in the report. Major suppliers are those having \$500,000 or more in annual sales (as stated in the agreement) to the Section 272 affiliate.
2. Using the lease agreements obtained in Objective II, Procedure 2, that were entered into or modified during the Engagement Period, document any instances in which each



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Section 272 affiliate's lease agreements (where the annual obligation is \$500,000 or more as stated in the agreement) have recourse to the assets of the SBC BOC/ILEC, either directly or indirectly through another affiliate, and disclose in the report

- 3 For all debt instruments, leases, and credit arrangements maintained by each Section 272 affiliate in excess of \$500,000 of annual obligations that were entered into or modified during the Engagement Period, and for a sample of 10 debt instruments, leases and credit arrangements that are less than \$500,000 in annual obligations that were entered into or modified during the Engagement Period, (judgmental sample), obtain (positive) confirmations from loan institutions, major suppliers, and lessors to attest to the lack of recourse to the SBC BOC/ILEC's assets. Disclose in the report any recourse noted.

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### Procedures for Accounting Requirements

**OBJECTIVE V.** Determine whether the separate affiliate required under Section 272 of the Act has conducted all transactions with the Bell operating company on an arm's length basis with the transactions reduced to writing and available for public inspection.

**OBJECTIVE VI.** Determine whether or not the Bell operating company has accounted for all transactions with the separate affiliate in accordance with the accounting principles and rules approved by the Commission.

### STANDARDS

The FCC in CC Docket 96-150, Implementation of the Accounting Safeguards Under the Telecommunications Act of 1996, interprets the above requirements further by stating:

- A Section 272 affiliate shall conduct all transactions with the BOC of which it is an affiliate on an arm's length basis, pursuant to the accounting rules described in 47 C.F.R. Section 32.27, Transactions with Affiliates, of the FCC Rules and Regulations, with any such transactions reduced to writing and available for public inspection. (See 47 C.F.R. Section 53.203(e)). Section 32.27 requires the following:

**For transactions involving the sale or transfer of assets or products between the carrier and affiliates:**

- a assets sold to or by the carrier under tariff must be recorded at tariffed rate in the books of the carrier;
- b. nontariffed assets sold to or by the carrier that qualify for prevailing price must be recorded at prevailing price in the books of the carrier. In order to qualify for prevailing price valuation, sales of a particular asset must encompass greater than 50% (25% permissible since January 1, 2002) of the total quantity of such product sold by an entity; the 50% (25% permissible since January 1, 2002) threshold is applied on an asset by asset basis rather than on a product line basis;
- c all other assets sold by or transferred from a carrier to affiliates must be recorded in the books of the carrier at no less than the higher of fair market value or net book cost; (Note: carriers are required to make a good faith estimate of fair market value )

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- d. all other assets purchased by or transferred to a carrier from affiliates must be recorded in the books of the carrier at no more than the lower of fair market value or net book cost,

*Exception: Threshold.* Carriers are required to make a good faith determination of fair market value for an asset when the total aggregate annual value of the asset(s) reaches or exceeds \$500,000, per affiliate. When a carrier reaches or exceeds the \$500,000 threshold for a particular asset for the first time, the carrier must perform the market valuation and value the transaction on a going-forward basis in accordance with the affiliate transactions rules. When the total aggregate annual value of the asset(s) does not reach or exceeds \$500,000, the asset(s) shall be recorded at net book cost.

### **For transactions involving the provision of services between the carrier and affiliates:**

- a. services provided to or by the carrier at tariff must be recorded at tariffed rate in the books of the carrier,
- b. nontariffed services provided to or by the carrier pursuant to publicly filed agreements submitted to a state commission must be recorded in the books of the carrier at the rate appearing in publicly filed agreements;
- c. nontariffed services provided to or by the carrier that qualify for prevailing price must be recorded in the books of the carrier at prevailing price. In order to qualify for prevailing price valuation, sales of a particular service must encompass greater than 50% (25% permissible since January 1, 2002) of the total quantity of such service sold by an entity; the 50% (25% permissible since January 1, 2002) threshold is applied on a service by service basis rather than on a service line basis;
- d. all other services provided to a carrier by an affiliate must be recorded in the books of the carrier at no more than the lower of fair market value or fully distributed cost.
- e. all other services provided by the carrier to an affiliate must be recorded in the books of the carrier at no less than the higher of fair market value or fully distributed cost.

*Exception: Threshold.* Carriers are required to make a good faith determination of fair market value for a service when the total aggregate annual value of that service reaches or exceeds \$500,000, per affiliate. When a carrier reaches or exceeds the \$500,000 threshold for a particular service for the first time, the

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carrier must perform the market valuation and value the transaction on a going-forward basis in accordance with the affiliate transactions rules. When the total aggregate annual value of the service does not reach or exceeds \$500,000, the service shall be recorded at fully distributed cost.

- f. Fully distributed cost is determined by following the standards contained in 47 C.F.R. Section 64.901, Allocation of Costs, of the FCC Rules and Regulations. These rules emphasize direct assignment and cost causation. First, costs are to be directly assigned either to regulated or nonregulated activities to the maximum extent possible. Then, costs which cannot be directly assigned are to be grouped into homogeneous cost pools and allocated in accordance with direct or indirect measures of cost causation. Residual costs which cannot be apportioned on any cost-causative basis will be apportioned using the general allocator. The general allocator is the ratio of all expenses directly assigned or attributed to nonregulated activities, to the total of all (regulated and nonregulated) directly assigned or attributed expenses
- A BOC and a Section 272 affiliate may provide in-house services to one another, except for operating, installation, or maintenance services. These in-house services, however, must be provided on an arm's length basis, and must be in writing. (See CC Docket No. 96-149, First Report and Order, para 180)
- Provision of exchange and exchange access services and unbundled network elements constitute transactions requiring disclosure (See CC Docket No. 96-150, Report and Order, para. 124). These transactions include the provision of transmission and switching facilities by the BOC and its affiliate to one another. (See CC Docket No. 96-149, First Report and Order, para. 193)
- The separate affiliate must provide a detailed written description of the asset transferred or service provided, together with the specific price, frequency, and the terms and conditions of the transaction on the Internet within 10 days of the transaction through the company's home page. (Note: a transaction is deemed to have occurred once the BOC and its affiliate have agreed upon the terms and conditions of the transaction, not when the service is actually performed or the asset actually sold.) These descriptions should be sufficiently detailed to allow evaluation of compliance with accounting rules. This information must also be made available for public inspection at the principal place of business of the BOC and must contain a certification statement identical to that included in the ARMIS Reports. This certification statement declares that an officer of the BOC has represented that to the best of his knowledge all statements of fact contained in the submission are true and the submission is an accurate statement of the affairs of the BOC for the relevant period. (See CC Docket No. 96-150, Report and Order, para. 122)

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- Affiliate transaction rules apply to transactions between the BOC and each Section 272 affiliate; between each Section 272 affiliate and a nonregulated affiliate, that ultimately result in an asset or service being provided to the BOC, i.e., chained transactions (See CC Docket No. 96-150, Report and Order, para. 183)
- Products and services made available to the Section 272 affiliate and to unaffiliated companies need not meet the 50 % threshold (25 % permissible threshold since January 1, 2002) in order for a BOC to record the transaction involving such products and services at prevailing price (See CC Docket No 96-150, Report and Order, para. 137; CC Docket No. 00-199, Report and Order, Appendix F Section 32.27)
- Nondiscrimination requirements extend to any good, service, facility, or information that a BOC provides to its Section 272 affiliate(s) with the exception of joint marketing, which is covered in Section 272(g) of the Act. Unaffiliated entities must have equal opportunity to acquire any such good, service, facility, or information. In particular, if a BOC were to decide to transfer ownership of a unique facility, such as its Official Services network, to a Section 272 affiliate, it must ensure that the Section 272 affiliate and unaffiliated entities have an equal opportunity to obtain ownership of this facility. (See CC Docket No 96-149, First Report and Order, para. 218)
- Interstate rate base, revenue requirements, and price cap indices of the BOC must be reduced by the costs related to any regulated facilities transferred to each Section 272 affiliate. (See CC Docket No 96-150, Report and Order, para. 265)

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### PROCEDURES

- 1 Document in the working papers the procedures used by the SBC BOC/ILEC to identify, track, respond, and take corrective action to competitors' complaints with respect to alleged violations of the Section 272 requirements. Obtain from the SBC BOC/ILEC a list of all FCC formal complaints, as defined in 47 CFR 1.720; FCC informal complaints, as defined in 47 CFR 1.716 and any written complaints made to a state regulatory commission from competitors involving the provision or procurement of goods, services, facilities, and information, or in the establishment of standards which were filed during the engagement period. This list should also include outstanding complaints from the prior engagement period, which had not been resolved during that period. The list should group the complaints in the following categories:
  - allegations of cross-subsidies (for Objectives V and VI);
  - allegations of discriminatory provision or procurement of goods, services, facilities, customer network services information (excludes customer proprietary network information (CPNI)), or the establishment of standards (for Objective VII);
  - allegations of discriminatory processing of orders for, and provisioning of, exchange access and exchange services and unbundled network elements, and discriminatory resolution of network problems (for Objective VIII);
  - allegations of discriminatory availability of exchange access facilities (for Objective IX);
  - allegations of discriminatory availability of interLATA facilities or services not at the same rates and not on the same terms and conditions as the interLATA affiliate (for Objective XI).

For each group of complaints, determine by inquiry and documentation how many of these complaints were under investigation, how many complaints had been resolved and in what time frame they had been resolved, if feasible, and disclose in the report. For those complaints that had been resolved, document and disclose in the report how those allegations were concluded and, if the complaint was upheld, inquire and document and disclose in the report what steps the company has taken to prevent those practices from recurring. For all complaints that were filed in the previous engagement period, but were still open as of July 10, 2001, determine by inquiry and review of documentation how many of these complaints were under investigation as of the end of the current engagement period, how many complaints have been resolved as of the end of the current engagement period (and in what time frame they had been resolved), and disclose results

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in the audit report. For those complaints that have been resolved, document and disclose in the report how those allegations were concluded, and if the complaint was upheld inquire and document and disclose in the report what steps the company has taken to prevent those practices from recurring.

Note. Although applicable to complaints pertaining to Objective V/VI, VII, VIII, IX and XI, this procedure appears only once here in these General Standard Procedures and will be performed only once for Objectives V/VI, VII, VIII, IX and XI. Reporting of the results of this procedure in the final report should be found here under Objective V/VI, Procedure 1, and should include the results for each respective objective.

2. Obtain from the SBC BOC/ILEC and each Section 272 affiliate, current written procedures for transactions with affiliates. Compare these procedures with the FCC rules and regulations indicated as "standards" above. Note and describe any differences and disclose in the report.
3. Inquire and describe how the SBC BOC/ILEC and each Section 272 affiliate disseminate the FCC rules and regulations and raise awareness among employees for compliance with the affiliate transactions rules. For this purpose, describe in the report the type and frequency of training, if any, literature distributed, company policy, and document in the report the nature of the supervision received by employees responsible for affiliate transactions. Interview employees responsible for the development and recording of affiliate transaction costs in the books of record of the carrier to determine awareness of these rules. Disclose in the report whether these employees demonstrated knowledge of these rules.
4.
  - a. Obtain a listing of all written agreements for services and for interLATA and exchange access facilities between the SBC BOC/ILEC and each Section 272 affiliate which were in effect during the **Audit Test Period**. Note which agreements are still in effect. For those agreements no longer in effect, indicate the termination date; identify agreements terminated prematurely and document why and disclose in the report. Inquire and document and disclose in the report the provisioning of any service without a written agreement.
  - b. Obtain a listing of all written agreements, amendments and addenda that became effective during the Audit Test Period. For a statistically valid sample of such agreements, amendments and addenda, obtain (include in the practitioner workpapers) copies of written agreements, amendments and addenda.
5. Using the sample of the agreements, amendments or addenda obtained in procedure 4b, view each company's web site on the Internet and compare the prices, terms and conditions of services and assets shown on this site to the agreements provided in Procedure 4b above. Disclose in the report any instance where any item in the agreement

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does not agree with the corresponding item on the Internet. Using the same sample as above, by physical inspection, determine whether the same information is made available for public inspection at the principal place of business (BOC headquarters) of the SBC BOC/ILEC. Describe any differences and inquire why such differences exist and disclose in the report. If the company makes any claim of confidentiality for nondisclosure, obtain details. It should be noted that these transactions should be posted for public inspection within 10 days of their occurrence. Document in the workpapers the dates when the agreements, amendments or addenda in the sample were signed, and/or the dates when the services were first rendered (whichever took place first), and the dates of posting on the Internet. Inquire and note in the report late postings and reasons when posting took place after 10 days of signing of agreement or provision of service (whichever took place first). Document in the working papers the procedures the company has in place for posting these transactions on a timely basis. The information provided on the Internet should be in sufficient detail to allow evaluation for compliance with accounting rules (see CC Docket No. 96-150, Report and Order, para. 122). For example, such disclosures should include a description of the rates, terms, and conditions of all transactions, as well as the frequency of recurring transactions and the approximate date of completed transactions. For asset transfers, the disclosure should include the appropriate quantity and, if relevant, the quality of the transferred assets. For affiliate transactions involving services, the disclosure should include the number and type of personnel assigned to the project, the level of expertise of such personnel (including the associated rate per service unit (e.g. contacts, hours, days, etc)), any special equipment used to provide the service, and the length of time required to complete the transaction. Additionally, the disclosure should state whether the hourly rate is a fully-loaded rate, and whether or not that rate includes the cost of materials and all direct and indirect miscellaneous and overhead costs, for goods and services provided at FDC. If the information disclosed on the Internet is not sufficiently detailed as described above, document and describe in the report any differences and inquire why such differences exist. (See CC Docket No. 98-121, Memorandum Opinion and Order, para. 337.) Obtain copies of these public postings and include in the working papers.

6. Obtain a listing and amounts of all nontariffed services rendered by month by the SBC BOC/ILEC to each Section 272 affiliate during the **Audit Test Period**. Determine which of these services are made available to the Section 272 affiliate and not made available to third parties, and which services are made available to both the Section 272 affiliate and to third parties. (*Note: The invoices for the services sampled in procedure a) below are rendered monthly by each SBC BOC/ILEC and include all services billed to the Section 272 affiliates from the SBC BOC/ILEC including both services not made available to third parties and services made available to both the Section 272 affiliates and third parties.*)
  - a) From the services not made available to third parties, select a statistically valid sample and determine whether the amounts recorded for the sampled services in



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the books of the SBC BOC/ILEC are in accordance with the affiliate transactions rules of the Commission. Compare unit charges to Fully Distributed Cost (FDC), or Fair Market Value (FMV) as appropriate. When differences exist, note in the report the number of instances and, after inquiry, the reasons for these occurrences.

- b) For all the invoices that include the services sampled in procedure a) above, and from one month's invoice randomly selected for each SBC BOC/ILEC to the Section 272 affiliates if no SBC BOC/ILEC invoice was selected in procedure a), compare the amounts recorded for the sampled invoices in the books of the SBC BOC/ILEC the amounts recorded for the sampled invoices in the books of the Section 272 affiliate, and the amounts the Section 272 affiliate has paid to the SBC BOC/ILEC for the sampled invoices. When differences exist, note in the report the number of instances and, after inquiry, the reasons for these occurrences. Disclose in the report the differences between the amount recorded in the books of the SBC BOC/ILEC and the amount the Section 272 affiliate has paid to the SBC BOC/ILEC for the same invoices. Also disclose any differences between the amount recorded in the books of the Section 272 affiliate and the amount the Section 272 affiliate has paid to the SBC BOC/ILEC for the same invoices.

- 7 a) Obtain a listing and amounts of all services billed by month, by invoice (BAN (Billing Authority Number)), to the SBC BOC/ILECs by SBCS during the **Audit Test Period**. Select a statistically valid sample (100) of the invoices from all invoices in the population greater than \$100, and identify the largest item on each selected invoice. Review the selections and make sure that each state has at least three different services represented in the sample of "largest items". Perform replacement sampling as required. Compare unit charges to tariff rates, PMP, FDC, or FMV, as appropriate, to determine whether these services were recorded in the books of the SBC BOC/ILEC in accordance with the affiliate transactions rules. Include any and all applicable surcharges when verifying the unit charges. When differences exist, note in the report the number of instances and the amounts involved. Inquire and make a note of reasons for these occurrences in the report. Disclose in the report the differences between the amount the SBC BOC/ILEC has recorded for the services in its books of account and the amount the SBC BOC/ILEC has paid for the same services to SBCS.

- b) Obtain a listing and amounts of all services billed by month, by invoice (BAN), to the SBC BOC/ILECs by ACI during the **Audit Test Period**. Select a statistically valid sample of the invoices. Prepare a distribution spreadsheet showing for the sampled invoices how many and which services are represented on those invoices. (Services are billed in the aggregate for all five Ameritech states.) Randomly select three invoices for each service. For each invoice, compare unit charges to tariff rates, PMP, FDC, or FMV, as appropriate, to determine whether these services were recorded in the books of the

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SBC BOC/ILEC in accordance with the affiliate transaction rules. Where there are multiple rates for a service, e.g., different rates per state, test each rate billed on the selected invoice. Include any and all applicable surcharges when verifying the unit charges. When differences exist, note in the report the number of instances and the amounts involved. Inquire and make a note of reasons for these occurrences in the report. Disclose in the report the differences between the amount the SBC BOC/ILEC has recorded for the services in its books of account and the amount the SBC BOC/ILEC has paid for the same services to ACI.

8. Obtain as of the end of the **Audit Test Period** the balance sheet of each Section 272 affiliate and a detailed listing of all fixed assets which agrees with the amount shown in the balance sheet. If the list does not agree, inquire and document why in the report. This detailed listing should include a full description of each item, location, date of purchase, price paid and recorded, and from whom purchased or transferred. The balance sheet information obtained in this procedure should also be used to perform Procedure 5 under Objective I. For items added since July 10, 2001, perform the following steps:
  - a. For those items purchased or transferred from the SBC BOC/ILEC, obtain net book cost and fair market value. Inquire and document in the report how the fair market value was determined. Inspect these transactions to determine whether they were recorded in the books of the SBC BOC/ILEC at the higher of FMV or net book cost, as required by the Commission's rules in Section 32.27 and disclose in the report.
  - b. For those items purchased or transferred from another affiliate, identify and document in the report whether they were originally transferred from the SBC BOC/ILEC to other affiliates.
  - c. For those items purchased or transferred from the SBC BOC/ILEC, either directly or through another affiliate, since July 10, 2001, also inquire and obtain details as to how the SBC BOC/ILEC made an equal opportunity available to unaffiliated entities to obtain ownership of the facilities and disclose in the report. Describe and disclose in the report how and upon what basis the SBC BOC/ILEC decided to transfer/sell the facilities to a Section 272 affiliate instead of an unaffiliated entity.
9. Where assets and/or services are priced pursuant to Section 252(e) (i.e., as approved by the regulatory commissions) or statements of generally available terms pursuant to Section 252(f), for a statistically valid sample of assets and/or services, compare the price the SBC BOC/ILEC charges each Section 272 affiliate to the stated price in the publicly-filed agreements or statements and document any differences in the report.

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10. Inquire and obtain details as to whether any part of the SBC BOC/ILEC's Official Services network was transferred or sold to a Section 272 affiliate since July 10, 2001. In addition to the requirements for Procedure 8, for any transfer or sale of Official Services network assets on or after July 10, 2001, inquire and obtain details as to how the SBC BOC/ILEC made an equal opportunity available to unaffiliated entities to obtain ownership of the facilities. Describe how and upon what basis the SBC BOC/ILEC decided to transfer/sell the facilities to a Section 272 affiliate instead of an unaffiliated entity. Disclose all of the above facts in the report.

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### Procedures for Nondiscrimination Requirements

**OBJECTIVE VII.** Determine whether or not the Bell operating company has discriminated between the separate affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or the establishment of standards.

### STANDARDS

The FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, establishes some non-discriminatory rules and regulations. These rules and regulations do not permit a Bell operating company (BOC) to discriminate in the following manner:

- by giving preference to a Section 272 affiliate's equipment in the procurement process. (See First Report and Order, para. 16)
- in awarding contracts for telecommunications equipment directly to their affiliate in a manner that violates Section 273(e)(1) or 273(e)(2). (See First Report and Order, para. 234)
- by failing to provide advance information about network changes to its competitors. (See First Report and Order, para. 16)
- by not offering third parties the same goods, services, facilities and information (excludes customer proprietary network information (CPNI) and joint marketing) that it provides to its Section 272 affiliate at the same rates, terms, and conditions. (See First Report and Order, para. 202 and 218)

### NOTES:

- (i) BOCs are not required under the nondiscrimination rules and regulations to provide to third parties Customer Proprietary Network Information (CPNI) that is shared with affiliates (see *Second Report and Order*, CC Docket No. 96-115, Released February 26, 1998, para. 169). The provision of "information" referenced in the nondiscriminatory rules and regulations excludes CPNI. CPNI is defined in Section 222(f)(1) of the Act and includes information that is personal to customers as well as commercially valuable to carriers, such as to whom, where and when a customer places a call, as well as the types of service offerings to which the customer subscribes and the extent the service is used.

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- (ii) BOCs are allowed to jointly market and sell affiliate-provided interLATA services without offering comparable joint marketing opportunities to other providers of interLATA services (see Section 272(g)(2) of the Act, and CC Docket No. 96-149, First Report and Order, Paragraphs 291-292). However, if BOCs market or sell their telephone exchange services through joint marketing conducted by the Section 272 affiliate, then the BOCs must also permit third parties to market and sell its telephone exchange services (see Section 272(g)(1) of the Act).
- in establishing or adopting any standards that favor its Section 272 affiliate(s) over third parties. (See First Report and Order, para. 208 and 229)
- in developing new services solely for its Section 272 affiliate(s). (See First Report and Order, para. 210)
- in purposely delaying the implementation of an innovative new service by denying a competitor's reasonable request for interstate exchange access until its Section 272 affiliate was ready to provide competing service. (See First Report and Order, para. 211)
- in marketing its affiliate's interLATA services to inbound callers without informing them of their right to select the interLATA carrier of their choice. (See First Report and Order, para. 292)

### NOTE:

A BOC's obligation to inform callers of their long distance choices is limited to customers who order *new* local exchange service. A caller orders "new service" when the customer either receives service from the BOC for the first time, or moves to another location within the BOC's in-region territory. (See *In the Matter of AT&T Corp., Complainant, v. New York Telephone Company, d/b/a Bell Atlantic – New York, Defendant*, Memorandum Opinion and Order, File No. EB-00-MD-011; FCC 00-362; at ¶¶ 13-15.)

In addition, a Section 272 affiliate may not market or sell information services and BOC telephone exchange services together, unless the BOC permits other information service providers to market and sell telephone exchange services. (See First Report and Order, para. 287)

### PROCEDURES

1. Obtain and inspect the SBC BOC's procurement awards to each Section 272 affiliate during the **Audit Test Period** and inspect bids submitted by each Section 272 affiliate and third party, note terms, and discuss with SBC BOC representatives how the selection was made and disclose in the report. Compare this practice with the SBC BOC written procurement procedures and note any differences. Disclose in the report all instances of

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procurement awards given to the Section 272 affiliates where the terms of bids submitted by third parties were more favorable than those submitted by the Section 272 affiliates. Disclose in the report all differences between the terms submitted by the Section 272 affiliates and the terms of bids submitted by third parties.

2. Obtain a list of all goods (including software), services, facilities, and customer network services information [excluding CPNI as defined in Section 222(f)(1) of the Act, and exchange access services and facilities inspected in Objective IX] made available to each Section 272 affiliate by the SBC BOC/ILEC. For a statistically valid sample of items from this list, inquire and obtain copies of the media used by the SBC BOC to inform unaffiliated entities of the availability of the same goods, services, facilities, and information at the same price, and on the same terms and conditions. Disclose in the report the results of this procedure.
3. Obtain a list from the SBC BOC of all unaffiliated entities who have purchased the same goods, as the Section 272 affiliates, (including software), services, facilities, and customer network services information (excludes CPNI) from the SBC BOC (except for exchange access services, and interLATA network services that are the subject of other procedures), during the **Audit Test Period**. If any, describe what goods, services, facilities, and customer network services information were purchased and the extent of purchases made.
  - a) For the list of unaffiliated entities obtained above, select a statistically valid sample of bills for the same goods (including software), services, facilities, and customer network services information (excludes CPNI), and excluding local exchange services, that were purchased by the Section 272 affiliates. For the sample, compare the rates, terms, and conditions of the sampled items to the rates, terms, and conditions of the items purchased by each Section 272 affiliate. Note any differences and disclose in the report. For the sampled items, document the amount each Section 272 affiliate was billed and the amount each Section 272 affiliate paid for the same items purchased from the SBC BOC, and disclose any differences in the report.

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- b) For local exchange services, compile a list of services billed to the Section 272 by USOC (Universal Service Order Code) in June, 2003, including the rates billed by USOC, by state. Select a statistical sample of USOCs billed in June, 2003, and compare the rates charged per USOC selected to the applicable tariff rate. Note any differences and disclose in the report. From the sample items, compile a list of invoices on which the sampled items appeared. From the list of invoices, randomly select 25 invoices and document the amount each 272 affiliate was billed and the amount paid, and disclose differences in the report.
4. Document and disclose in the report how the SBC BOC disseminates information about network changes, the establishment or adoption of new network standards, and the availability of new network services to each Section 272 affiliate and to unaffiliated entities. Note any differences in the report.
5. At the service call centers observed in procedure 6 below, obtain and inspect scripts that SBC BOC's customer service representatives recite to new customers calling, or visiting customer service centers, to establish new local telephone service or to move an existing local telephone service to another location within the BOC in-region territory. If these scripts contain language to attempt to sell interLATA services, note and disclose in the report whether these scripts inform the consumers that there are other providers of interLATA services and that these providers, along with the interLATA service affiliates, are identified to the consumers. In addition, obtain and inspect the written content of the SBC BOC website for on-line ordering of new service or to move an existing local telephone service; note and disclose in the report whether the consumers are informed that there are other providers of interLATA services and that these providers, along with the interLATA service affiliate, are identified to the consumers.
6. Obtain a complete listing, as of the end of the **Audit Test Period**, of all SBC BOC sales and support customer service call centers.
  - a. From the listing, compile a list of SBC BOC call centers responding to inbound callers requesting to establish new local telephone service or to move an existing local telephone service to another location within the BOC in-region territory. From this listing, identify and group each call center by type of customers, viz., "Consumer" or "Business" or "Global." Using a random number generator, select six Consumer call centers and four Business call centers. Listen in to a statistically valid number of calls (100 in total, or 10 per call center) in which the customer service representatives attempt to market the Section 272 affiliate's interLATA service to callers requesting to establish new local telephone service or to move an existing local telephone service. Labor union concurrence may be needed for this procedure. Note messages conveyed while listening in, including clarity of message delivered. Note and disclose in the report any instances

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where the customer service representative steered the caller to obtain the interLATA services of the Section 272 affiliate, did not inform the caller of other providers of interLATA services, or did not inform the caller of his right to select the InterLATA services provider.

- b. For the Global Sales Channel, inquire and document the methods and controls that are in place to ensure that the equal access notification of informing customers that they have a choice to select the InterLATA services provider is given to inbound customers requesting to establish new local telephone service or to move an existing local telephone service to another location within the BOC in-region territory.
  - c. From the listing, compile a list of call centers that might incidentally respond to inbound callers requesting to establish new local telephone service or to move an existing local telephone service (such as sales and service centers that usually receive customer inquiries from existing customers). Using a random number generator, select three such Consumer call centers and two Business call centers, and listen in to 20 calls per center. Labor union concurrence may be needed for this procedure. If any customer requests to establish new local telephone service or to move an existing local telephone service, the practitioner should contact the Oversight Team before proceeding.
- 7. Obtain a listing of all call centers in which representatives of third-party contractors of the SBC BOC respond or might incidentally respond to customers requesting to establish new local telephone service or to move existing local telephone service. Using a random number generator, select three Consumer call centers and the one Business call center. Listen in to 25 calls per call center. If any customer requests to establish new local telephone service or to move an existing local telephone service, the practitioner should contact the Oversight Team before proceeding.
  - 8. Identify the controls utilized by SBC BOCs and the third party contractors hired for inbound telemarketing to assure compliance by SBC BOCs with Section 272. Compare SBC BOC controls with third party contractor controls and document differences in the audit report. Describe all controls in the report.
  - 9. Obtain and review each of the contracts between SBC BOCs and third party contractors that provide telemarketing. Document in the audit report all controls contained in the contracts relating to Section 272.



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NOTE. Pursuant to paragraph 7 of these procedures (which states “[t]he AUP engagement shall cover.. operations ..for all states where SBC has obtained authority to provide in-region interLATA services), Objectives VIII through XI shall apply to. SWBT in TX, KS and OK, and SNET in CT, for the entire engagement period; SWBT in AR and MO starting on 11/16/01; and for the SBC BOC operating in any SBC state that obtains approval before the end of the engagement period from the date of such approval (e.g., Pacific Bell Telephone Company in CA starting on 12/19/02; Nevada Bell Telephone Company in NV starting on 04/14/03; etc.)

**OBJECTIVE VIII.** Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have fulfilled requests from unaffiliated entities for telephone exchange service and exchange access within a period no longer than the period in which it provides such telephone exchange service and exchange access to itself or its affiliates.

### STANDARDS

Although the FCC in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, reached various conclusions, a further proceeding in this matter, currently underway, will provide the implementing rules and regulations. We will revise these procedures to conform to the new rules and regulations when available so long as the new rules are adopted by the FCC, applicable to Section 272 relationships and to the extent in effect during the engagement period. The conclusions reached by the Commission provide that,

- for equivalent requests the response time a BOC provides to unaffiliated entities should be no greater than the response time it provides to itself or its affiliate (See First Report and Order, para 240)
- a BOC must make available to unaffiliated entities information regarding the service intervals in which the BOC provides service to itself or its affiliates. (See First Report and Order, para. 242)
- a BOC must not provide a lower quality service to competing interLATA service providers than the service it provides to its Section 272 affiliate at a given price. (See First Report and Order, para. 16)

In its Section 271 applications, SBC made commitments regarding compliance with Section 272(e)(1) of the Act. This included the commitment to provide the performance monitoring that will assist in confirmation of nondiscriminatory performance in SBC's dealings with its 272 affiliates. If the Commission adopts reporting requirements, SBC BOC/ILEC will fully comply.

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### PROCEDURES

1. Document in the working papers the practices and processes the SBC BOC/ILEC has in place to fulfill requests for telephone exchange service and exchange access service for the Section 272 affiliates, other affiliates, and nonaffiliates in each state where SBC has been authorized to provide in-region interLATA services. If the Section 272 affiliates, or BOC and other BOC affiliates are treated differently than nonaffiliates, note and describe all differences in the report. Describe in the report the BOC's internal controls and procedures designed to implement its duty to provide nondiscriminatory service
2. For each state where SBC has been authorized to provide in-region interLATA services, document in the working papers the processes and procedures followed by the SBC BOC/ILEC to provide information regarding the availability of facilities used in the provision of special access service to its Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates. Note any differences in the report. Inquire of management whether any employees of the Section 272 affiliates, or BOC and other BOC affiliates, have access to, or have obtained, information regarding special access facilities availability in a manner different from the manner made available to nonaffiliates (e.g., direct calls, placed prior to ordering, from the Section 272 affiliates or BOC account managers to employees who may have facilities availability information). Disclose in the report any such instances
3. For each state where SBC has been authorized to provide in-region interLATA services, obtain written methodology that the SBC BOC/ILEC follows to document time intervals for processing orders (for initial installation requests, subsequent requests for improvement, upgrades or modifications of service, or repair and maintenance), provisioning of service, and performing repair and maintenance services for the Section 272 affiliates, BOC and other BOC affiliates and nonaffiliates for the services described in Procedure 4, below. Briefly describe this methodology in the report. If the company does not have any written procedures inquire and document why in the report.
4. For each state where SBC has been authorized to provide in-region interLATA services, obtain, and include as an attachment to the report, performance data maintained by the SBC BOC/ILEC during the period July 1, 2001, through June 30, 2003, by month, indicating time intervals for processing orders (for initial installation requests, subsequent requests for improvement, upgrades or modifications of service, or repair and maintenance), provisioning of service, and performing repair and maintenance services for the Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates, as separate groups, for the following services:
  - Telephone exchange service, if any of the separate groups resells local service.

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- Exchange access services for DSO, DS1, DS3, feature group D, and OCn, as individual groups; for the BOC and other BOC affiliate group, exchange access measurements should cover services provided to affiliates on a wholesale basis.
- Presubscribed Interexchange Carrier (PIC) change orders for intraLATA toll services and interLATA services

The table below should be used as guidance for the information to be included in the metrics. If no performance measures are applicable for both the “Section 272 affiliates” and the “BOC and other BOC affiliates” groups, performance metrics for non-affiliates are not required. For each group (Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates) and each service category (telephone exchange service, exchange access service, and PIC change orders) combination in the table below for which SBC BOC/ILEC makes a claim of “not applicable”, the practitioner must confirm independently that there are no such measurements to be reported, or get a representation letter from management as to why such measurements do not need to be reported in this engagement.

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### SUMMARY OF COMPANY TYPE AND SERVICE TYPES FOR PERFORMANCE MEASUREMENT REPORTING

Company Type	Telephone Exchange Service	Exchange Access Service (ASRs Only)	PIC Change Orders
272 Affiliate	Included - if the 272 affiliate resells local service	Included	Included
Other Affiliates, including the BOC(s)	Included - to measure services provided on a <b>Resale</b> basis	Included - to measure <b>Wholesale</b> services provided to affiliates	Included if applicable
Non-Affiliates (includes all entities purchasing services for resale or on a wholesale basis)	Included - to measure services provided on a <b>Resale</b> basis	Included	Included

The performance measures should include the requested performance data by month for each state beginning with the first whole month of data following Section 271 approval for that state (or July 1, 2001, whichever occurs later) and ending on June 30, 2003 (the twenty-fourth full month for which performance data is available). Where appropriate, the performance measures data shall reflect the standard deviation, as well as mean. For purposes of inclusion in the audit report, the practitioner should obtain all restatements of any performance data, and include in the report the latest restatement.

For each of the above service categories, except for PIC change orders, SBC has committed to maintain in each Section 271 application measurements to prove compliance with these nondiscriminatory requirements. The measurements are as follows:

- a. Successful Completion According to Desired Due Date (measured in a percentage). Indicate the total number of service orders for each service and for each group of customers.

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- b Time from BOC Promised Due Date to Circuit being placed in service (measured in terms of percentage installed within each successive 24 hour period, until 95% installation completed). Indicate the total number of installation orders for each service and for each group of customers.
- c Time to Firm Order Confirmation (measured in terms of percentage received within each successive 24 hour period, until 95% completed). Indicate the total number of order requests for each service and for each group of customers.
- d Time to Restore and trouble duration (percentage restored within each successive 1 hour interval, until resolution of 95% of incidents). Indicate the total number of trouble reports for each service, for each group of customers.
- e Mean time to clear network /average duration of trouble (measured in hours). Indicate the total number of circuit-specific trouble reports for each service, for each group of customers.

For PIC change orders, the measurements are as follows:

- a Time from PIC change request to implementation (measured in terms of percentage implemented within each successive 6 hour period, until 95% completed)
- b Time to restore PIC after trouble incident (measured by percentage restored within each successive 1 hour interval, until resolution of 95% restored)

Note and disclose in the report differences in time in fulfilling each type of request for the same services from the Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates. Elicit explanations from SBC where fulfillment of requests from nonaffiliates took longer than for own Section 272 affiliates. Provide in the report a linear graph for each state, for each performance measure, for each service, over the entire engagement period, depicting the performance for the Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates.

If the requested performance data is not available in the manner described in this procedure (by month, by company type, by services) for the entire engagement period inquire and disclose in the audit report the period and description of the PMs that are lacking and the reasons why.

- 5. Using the reported data (i.e., by state, by service, by performance measure, by month) in Procedure 4 above, randomly select three months during the engagement period for Arkansas, Kansas, Missouri , Oklahoma and Texas and two months for California and one month for Nevada. For the selected month, apply the business rules to the underlying

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raw data and compare the results to those tracked and maintained by SBC BOC/ILEC for that performance metric. Applying the business rules must include all stages of the performance metric including definitions, exclusions, calculations, and reporting structure. Document any differences in the workpapers. Document in the report all differences noted that were greater than 1%, or resulted in the achievement of the 95% performance objective in a time interval different than reported by SBC.

- 6 Determine by inquiry, first, and then by inspection, how and where the SBC BOC/ILEC makes available to unaffiliated entities information regarding achieved service intervals in providing any service to the Section 272 affiliates, BOC and other BOC affiliates, and nonaffiliates. Document the results in the report.

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**OBJECTIVE IX.** Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have made available facilities, services, or information concerning its provision of exchange access to other providers of interLATA services on the same terms and conditions as it has to its affiliate required under Section 272 that operates in the same market.

### STANDARDS

The FCC in CC Docket No 96-149, Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended, indicates that a BOC may not discriminate in favor of its Section 272 affiliate in the following manner:

- by providing exchange access services to competing interLATA service providers at a higher rate than the rate offered to its Section 272 affiliate. (See First Report and Order, para 16)
- by not making available facilities and services to others on the same terms, conditions and prices that it provides to its Section 272 affiliate. (See First Report and Order, para. 316)

**PROCEDURES:** This objective is closely related to Objective XI which contains procedures for the provision by the BOC of interLATA facilities and services. Therefore, these procedures may be performed in conjunction with the procedures for Objective XI.

- 1 Obtain list of exchange access services and facilities with their related rates offered to each Section 272 affiliate and inspect to determine whether the SBC BOC/ILEC operating in a state in which SBC has received Section 271 approval makes these services and facilities available at the same rates and on the same terms and conditions to all carriers. For this purpose, inspect brochures, advertisements of any kind, bill inserts, correspondence, or any other media used to inform carriers of the availability of these services. Using a statistically valid sample of the informational media identified above, compare rates, terms, and conditions offered to each Section 272 affiliate with those offered to unaffiliated carriers. Note in the report all exceptions.
2. For exchange access services and facilities rendered by the SBC BOC/ILECs in those states that have received Section 272 approval, perform the steps listed below. If differences are noted, pursue the matter further through inquiry of appropriate personnel and note why they occurred and disclose in the report.
  - a Obtain a list of invoices by Billing Authority Number (BAN) issued to the Section 272 affiliates for the requested month (to be determined by the Oversight Team after discussing with SBC)

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- b. From the listing provided in step a. above, the practitioner will statistically select a valid sample of BANs billed to the 272 affiliates for review. Obtain copies of one BAN invoice per state (the first invoice selected, or the first invoice on the listing for a given state if that state was not selected in the sample) to be included in the workpapers and used in the performance of step g. below.
  - c. From the BANs selected in step b. the practitioner will compile a list of all USOCs (Universal Service Order Code) billed, name and rate, on the invoices reviewed above and select all if less than 100 or the first 100 if greater than 100.
  - d. The SBC BOC/ILEC will provide a report for the specified month by each USOC identified in step c. above that shows all billings by state of said USOCs to all carriers.
  - e. The practitioner will compare the USOC rates billed to the 272 affiliates to the rates billed to other carriers obtained by state in step d. above.
  - f. The practitioner will request explanations from the SBC BOC/ILEC for any differences identified in step e.
  - g. To compare terms and conditions, the practitioner will select one other carrier per state (13 different carriers) and the SBC BOC/ILEC will provide the first page of one BAN billing for the specified month and compare it to the Section 272 invoices obtained in step b. above.
3. Using the sampled invoices obtained in Procedure 2, step b above, determine whether the amount invoiced was the amount recorded by the SBC BOC/ILEC as revenue and paid by each Section 272 affiliate. Identify and inspect the method of payment such as cancelled checks, wire transfers, and, if needed, summaries of invoiced amounts corresponding to the amount paid. Note any differences and inquire as to why they occurred and disclose in the report



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**OBJECTIVE X.** Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have charged its separate affiliate under Section 272, or imputed to itself (if using the access for its provision of its own services), an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service.

### STANDARDS

The FCC has issued rules and regulations in CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended. These rules require that,

- A BOC may not discriminate in favor of its Section 272 affiliate by providing exchange access services to competing interLATA service providers at a higher rate than the rate offered to its Section 272 affiliate (See First Report and Order, para. 16). This requirement is met,
- If the affiliate purchases exchange service and exchange access service at tariffed rates. (See First Report and Order, para. 256)
- If the affiliate acquires services or unbundled elements from a BOC at prices that are available on a nondiscriminatory basis under Section 251. (See First Report and Order, para. 256)
- If the BOC files with the State Commission a statement of generally available terms pursuant to Section 271(c)(1)(B) which would include prices that are available on a nondiscriminatory basis in a manner similar to tariffing, and a BOC's Section 272 affiliate obtains access or interconnection at a price set forth in the statement. (See First Report and Order, para. 256)
- If a BOC makes volume and term discounts available on a nondiscriminatory basis to all unaffiliated interexchange carriers. (See First Report and Order, para. 257)
- BOCs are required to charge nondiscriminatory prices, and to allocate properly the costs of exchange access according to the affiliate transactions and joint cost rules. (See First Report and Order, para. 258)
- For integrated operations (for operations performed within the company and not under a separate affiliate), a BOC must impute to itself an amount for access to its telephone exchange service and exchange access that represents tariffed rates (See First Report and Order, para. 256). This tariffed rate must be the highest rate paid for access by

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unaffiliated carriers. The BOC may consider the comparability of the service provided. (See CC Docket No. 96-150 Report and Order, para. 87)

### PROCEDURES

1. Obtain a list of interLATA services offered by the SBC BOC/ILEC operating in each state in which SBC has received 271 approval, and discuss list with appropriate SBC BOC employees to determine whether the list is comprehensive. Compare services appearing on the list with interLATA services disclosed in the SBC BOC's Cost Allocation Manual (CAM) and note any differences in the report. Compare the nonregulated interLATA services listed in the SBC BOC's/ILEC's CAM with those defined as incidental in Section 271(g) of the Act and those interLATA services allowed under FCC order (for example E911) and note any differences and disclose in the report.
2. From the list of services obtained in Procedure 1 above, by using a statistically valid sample of interLATA services offered by the SBC BOC/ILEC operating in each state in which SBC has received Section 271 approval and not through an affiliate, determine whether the SBC BOC is imputing (charging) to itself an amount for access, switching, and transport. Obtain usage details and tariff rates for each of the above elements. Match rates used in calculations with the tariff rates or those rates charged other interexchange carriers (IXCs) and note any differences in the report. Trace the imputed amounts for one month for each SBC BOC/ILEC operating in a state in which SBC has received 271 approval to the journal entry and to the general ledger of the SBC BOC/ILEC. The entry should be a debit to nonregulated operating revenues (decrease) and a credit to regulated revenues (increase). If the process followed by the SBC BOC/ILEC is different from the one described above, disclose in the report.
4. For each of the following categories of services, viz., exchange access services, local exchange services, and unbundled network elements, provided by the SBC BOC/ILEC to the Section 272 affiliates during the engagement period, document the total amount the Section 272 affiliates have recorded as expense for those services in their books, and compare the amounts booked as revenues by the SBC BOC/ILEC to the amounts recorded by the Section 272 affiliates. Also compare the amount recorded as expense to the amount paid by the Section 272 affiliates to the SBC BOC/ILEC. Inspect the method of payment (such as cancelled checks, wire transfers, or summaries of invoiced amounts corresponding to the amount paid). Where there is a difference in any of the comparisons, inquire as to the reason(s) why, and disclose in the report. In addition, obtain from the SBC BOC/ILEC an accounts receivable aging for balances due from the Section 272 affiliates for the last 12 months of the engagement period. For balances 60 or more days past due, document in the report the total amount due and obtain an explanation from management as to the reason(s) for the delay in payment. For local exchange services, for any such past due balances which must be compiled manually on an individual account

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basis, compile the 5 largest dollar volume accounts or a sufficient number of accounts, that when aggregated, represent approximately 50% of total amount billed.

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**OBJECTIVE XI.** Determine whether or not the Bell operating company and an affiliate subject to Section 251(c) of the Act have provided any interLATA facilities or services to its interLATA affiliate and made available such services or facilities to all carriers at the same rates and on the same terms and conditions, and allocated the associated costs appropriately.

### STANDARDS

Valuation and recording procedures for sales or transfers of any interLATA or intraLATA facilities to each Section 272 affiliate, leasing of any unbundled network elements, or provision of any service by the BOC to each Section 272 affiliate are covered in Objectives V and VI of this program, under the affiliate transactions rules.

BOC network services and unbundled network elements made available under Section 251 to each Section 272 affiliate must also be made available at the same price to unaffiliated companies (See CC Docket No. 96-149, First Report and Order, para. 256)

**PROCEDURES:** This objective is closely related to Objective IX which contains procedures for the provision by the BOC of exchange access services. Therefore, these procedures may be performed in conjunction with the procedures for Objective IX.

1. Obtain list of interLATA network services and facilities with their related rates offered by the SBC BOC/ILEC operating in each state in which SBC has received Section 271 approval to each Section 272 affiliate to determine whether the SBC BOC/ILEC makes these services and facilities available at the same rates, terms, and conditions to all carriers. For this purpose, inspect brochures, advertisements of any kind, bill inserts, correspondence, or any other media used to inform carriers of the availability of these services. Using a statistically valid sample of the informational media identified above, compare rates, terms, and conditions offered each Section 272 affiliate with the rates, terms, and conditions offered unaffiliated carriers and disclose differences in the report.
2. Obtain an invoice for interLATA network services and facilities for one month (to be determined by the Oversight Team after discussing with SBC) rendered by the SBC BOC/ILEC operating in each state in which SBC has received Section 271 approval to the Section 272 affiliate and other interexchange carriers (IXCs) that receive these services from the SBC BOC/ILEC. Using a statistically valid sample of billed items, inspect underlying details of invoice and compare rates charged, and terms and conditions applied to each Section 272 affiliate with those charged and applied to other IXCs for the same services and note any differences. If differences are noted, pursue the matter further through inquiry of appropriate personnel and note why they occurred and disclose in the report.

## APPENDIX B

3. Using the invoices obtained in Procedure 2 above, determine whether the amount invoiced was the amount recorded by the SBC BOC/ILEC and paid by each Section 272 affiliate by identifying and inspecting the method of payment such as cancelled checks, wire transfers, and, if needed, summaries of invoiced amounts corresponding to the amount paid. Note any differences and inquire as to why they occurred and disclose in the report.

## APPENDIX B

### **Procedures for Subsequent Events**

1. Inquire of management whether companies' processes and procedures have changed since the time of execution of these procedures and the end of the engagement period. If so, identify those changes and re-perform the related procedures to determine continued compliance with those requirements. Disclose in the report changes and results of the procedures re-performed.
2. Inquire of and obtain written representation from management as to whether they are aware of any events subsequent to the engagement period, but prior to the issuance of the report, that may affect compliance with any of the objectives described in this document. Disclose in the report any such event.